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Nadine M. Gomes Williams
Associate
ngwilliams@mwe.com
212.547.5763

March 10, 2008

BY HAND DELIVERY

Honorable Lewis A. Kaplan
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St., Room 1310
New York, NY 10007

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MEMO ENDORSED

MAR 10 2008

Re: June Bennett, et al v. Kingsbridge Heights Rehabilitation Care Center, 07 cv 09456

Dear Judge Kaplan:

This firm represents defendant Kingsbridge Heights Rehabilitation Care Center ("Defendant") in the above-referenced matter. Per the suggestion of Your Honor's assistant, we respectfully write to bring to Your Honor's attention that the Court's grant of Plaintiffs' Motion to Amend the Complaint ("Motion") is in error.

More specifically, we write because it appears that on March 10, 2008, the Court granted Plaintiffs' Motion without considering Defendant's memorandum in opposition likely due to a miscalculation of Defendant's time to oppose the Motion. On February 25, 2008, Plaintiffs served their Motion *via first class mail*. (See Certificate of Service attached hereto). Accordingly, pursuant to Local Rule 6.1(b) "any opposing affidavits and answering memoranda shall be served within ten business days after service if the moving papers." Further, under FRCP 6(e) three days are added to Defendant's time to oppose Plaintiffs' Motion because Plaintiffs served their moving papers by mail. Thus, Defendant's opposition papers are due to the Court on March 13th.

Given the forgoing calculation of time and the fact that Defendant's are finalizing its opposition papers and will oppose Plaintiffs' motion and file such papers on March 13th, we respectfully request that Your Honor withdraw the Order granting Plaintiff's Motion until such time that Defendant's objections to the Motion may be heard.

Thank you for your consideration of this matter.

Respectfully submitted,

Enclosure

cc: Pamela J Eisher, Esq. (Via Email)
NYK 1150560-1.057806.0010

U.S. practice conducted through McDermott Will & Emery LLP.

340 Madison Avenue New York, New York 10173-1922 Telephone: 212.547.5400 Facsimile: 212.547.5444 www.mwe.com

LEWIS A. KAPLAN, USDJ

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